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**JUL 12 2001**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of

**FCC Form 302-CA Application**  
for Class A Television Station Status

**MM Docket 00-10 /**

**LICENSEE:** Information Super Station, LLC

**STATION:** **W28BY**, Washington, DC **Facility ID No. 21700**

**To:** Chief, Low Power Television Branch  
Video Services Division  
Mass Media Bureau

**REQUEST FOR WAIVER**

1. Information Super Station, LLC ("Information"), licensee of W28BY, Washington, DC, hereby requests a waiver of the Commission's Rules in connection with the application for a Class A License for W28BY being filed simultaneously herewith. As shown below, Information has operated W28BY in full compliance with the Class A eligibility requirements, and sent via United States mail in a timely fashion a Certificate of Eligibility for Class A Television status for W28BY. Therefore, this Class A license application should be processed and granted so that the public interest is fully served.

2. Licensees seeking a Certificate of Eligibility were required to have filed an application by January 28, 2000, certifying that from August 29, 1999, until November 29, 1999, their station (a) broadcast for a minimum of 18 hours per day; (b) broadcast an average of at least 3 hours per week of programming produced within the market area served by the station; and (c) was in compliance with all applicable Commission requirements for LPTV stations. The Community Broadcasters Protection Act of 1999 ("CBPA") also provides that the Commission

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may determine that in the alternative, the public interest, convenience, and necessity would be served by granting Class A status to a station not meeting all three of the above requirements.

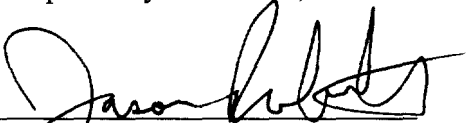
3. Information not only complied with the above-referenced requirements, but it has also operated W28BY in a manner consistent with all Class A licensing requirements, including having a main studio, public inspection file, and to the extent technically feasible, has complied with all requirements imposed on full power television stations under Part 73 of the Commission's Rules. *See Declaration of Dennis Dunbar, attached hereto as Exhibit A.*

4. On January 23, 2001, Information sent via United States mail to the FCC its Class A Statement of Eligibility. *See Exhibit A.* A copy of what was mailed is attached hereto. Because this was mailed 5 days before the required January 28 deadline, Information had every reason to believe it would be timely filed. However, it appears the Statement was never received by the Commission, as the station was not listed among those for which Class A eligibility was granted.

5. Under the CPBA, there is clear statutory authority allowing the Commission to grant Class A eligibility when it would properly serve the public interest. As shown herein, Information has more than complied with the Class A requirements, and serves as an important local voice in the Washington, DC metro area. W28BY is deserving of the primary status and

protection afforded by Class A status. Information should not be punished for having its application lost in the mail, and should instead be granted Class A status.

Respectfully submitted,

  
~~Peter Tannenwald~~  
Jason Roberts

Irwin, Campbell & Tannenwald, P.C.  
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Suite 200  
Washington, DC 20036-3101  
Tel. 202-728-0400  
Fax 202-728-0354

July 12, 2000

Counsel for Information Super Station, LLC

## **DECLARATION**

I Dennis Dunbar, do hereby declare the following:

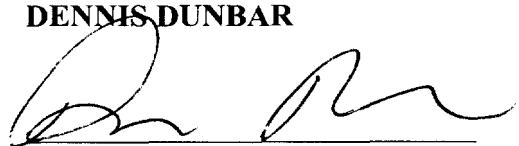
1. I am managing member of Information Super Station, LLC, licensee of W28BY, Washington, DC. From August 29, 1999, until the present, W28BY has broadcast on average 40 hours of local programming per week, is on the air 24 hours, 7 days a week, and is in compliance with all applicable Commission requirements for LPTV stations. W28BY broadcasts important meetings of the federal government that would otherwise be unavailable on an over-the-air broadcast signal.

2. On January 23, 2001, I sent via United States mail to the Commission a Class A Statement of Eligibility for W28BY, indicating that the station was in compliance with all filing requirements and was therefore deserving of Class A status.

3. W28BY currently operates in a manner consistent with all Class A licensing requirements, including having a main studio, public inspection file, and to the extent technically feasible, compliance with all requirements imposed on full power television stations under Part 73 of the Commission's Rules.

The foregoing is true and correct to the best of my ability, knowledge and belief.

**DENNIS DUNBAR**

A handwritten signature in black ink, appearing to read 'Dennis Dunbar', written over a horizontal line.

July 12, 2001

STATEMENT OF ELIGIBILITY  
FOR  
CLASS A LOW POWER TELEVISION STATION STATUS

1. Legal Name of LPTV Licensee WIRELESS DATA SYSTEMS, INC.		
Mailing Address 1120 G Street, NW Suite 250		
City Washington	State or Country (if foreign address) DC	ZIP Code 20005
Telephone Number (include area code) 202-756-2800	E-Mail Address (if available) Den2000@Erols.com	

LPTV Station:	Facility ID Number 21700	Call Sign W28BY
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Community of License:	City washington	State DC
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2. Contact Representative (if other than Licensee): Dennis Dunbar	Company or Firm Name: Wireless Data Systems, Inc
Telephone Number (include area code): 202-756-2800	E-Mail Address (if available): Den2000@erols.com

3. For the 90-day period ending November 28, 1999, has the low power television licensee:

- a. broadcast a minimum of 18 hours per day? ☒ Yes ☐ No
- b. broadcast an average of 3 hours or more per week of programming produced within the market area served by the station or by commonly-controlled stations? ☒ Yes ☐ No
- c. operated its station in full compliance with 47 Code of Federal Regulations Section 74.701, et seq., the Commission's regulations applicable to low power television stations? ☒ Yes ☐ No


If the answers to Questions 3(a), (b), and (c) is YES, the LPTV licensee may submit this statement to obtain a certificate of eligibility for Class A LPTV station status.

If the answer to Question 3(a), (b), or (c) is NO, the LPTV licensee may submit an Exhibit, setting forth fully the extent to which its station does not meet the above eligibility criteria and the reasons nevertheless that warrant a Commission determination that issuance of a certificate of eligibility would serve the public interest, convenience and necessity.

Exhibit No.  
N/A

4. Does the LPTV licensee certify that neither the licensee nor any party to the licensee, as defined in 47 Code of Federal Regulations Section 1.2002(b), is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862? ☒ Yes ☐ No

5. Certification. I certify that I have examined this Statement and that, to the best of my knowledge and belief, all representations in this Statement are true, correct and complete.

Typed or Printed Name of Person Signing	Typed or Printed Title of Person Signing Dennis J. Dunbar
Signature 	Date 1/23/2000

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).